

**Remarks for the "Response to Non-Final Office Action  
dated 3/30/2006"**

Applicant respectfully requests reconsideration and allowance of all of the claims of the application. Claims 1-23 are presently pending. Claim amended herein is none. Claims withdrawn or cancelled herein are none. New claims added herein are none.

**Formal Matters**

**Specification**

Herein, Applicant amends the specification in response to the Office's rejection (regarding use of browser-executable codes) and to include omitted information (regarding specific serial number of incorporated application).

421 West Riverside, Suite 500  
Spokane, WA 99201  
P: 509.324.9258  
F: 509.323.8979  
www.lee&hayes.com

**lee & hayes**

Serial No.: 09/934,032  
Atty Docket No.: 10016437-1  
RESPONSE TO NON-FINAL OFFICE ACTION DATED  
3/30/2006

10

0023081832 0:\DOCS\HP112242\USA65538.DOC  
atty: Kasey C. Christie

## Substantive Claim Rejections

### Claim Rejections under §§ 102 & 103

The Office rejects all of the pending claims under §102 and/or §103. For the reasons set forth below, the Office has not shown that cited references anticipate (under §102) the rejected claims. For the reasons set forth below, the Office has not shown made a *prima facie* case showing that the rejected claims are obvious (under §103). Accordingly, Applicant respectfully requests that the rejections be withdrawn and the case be passed along to issuance.

The Office's rejections are based upon the following references:

- **Feezell, Freezel et al.**, US Patent No. 6,253,189 (issued June 21, 2001); and/or
- **Roth, Roth et al.**, US Patent No. 6,285,987 (issued Sept. 4, 2001).

### Overview of the Application

The Application describes a technology for providing a common rating scale for services to facilitate the buying and selling of services via an on-line auction.

At least one described implementation is an on-line auction (such as an Internet auction), where services are the subject of such auction. More specifically, the services have a highly variable valuation (e.g., a "time-sensitive" value). In the described implementation a common rating scale is provided so that the value (and, in particular, the time-sensitive nature of the value) of such

1 services may be specified. Thus, this gives a common unit of measurement for  
2 perceived valuation of a service.

### 3 4 Cited References

5 The Office cites **Feezell** as its primary references in its anticipation-based  
6 rejection and in its obviousness rejection. The Office cites **Roth** as its secondary  
7 reference in its obviousness-based rejections.

### 8 9 Feezell

10 **Feezell** describes a technology for completing advertising time slot  
11 transactions. A time-slot exchange server receives an offer to sell a time slot  
12 along with time slot information relevant to making a buying decision with respect  
13 to the time slot. The time-slot exchange server makes available time slot offer and  
14 marketing and valuation data to assist a buyer to identify and properly value a time  
15 slot that meets the buyer's requirements. The time-slot exchange server receives  
16 time slot bids and transfers the ownership of a time slot from a seller to a buyer  
17 when a bid meets or exceeds the terms of the time slot's offer to sell.

18 The time-slot exchange server also ensures that a broadcaster has a correct  
19 copy of an advertisement to be shown in a time slot, and sends verification data to  
20 an advertiser indicating whether, when and how an advertisement intended to be  
21 shown in a time slot was actually seen. The time-slot exchange server also settles  
22 accounts in a time slot trade, debiting an account of a seller and crediting an  
23 account of a buyer in accordance with the terms of the trade.  
24  
25

421 West Riverside, Suite 500  
Spokane, WA 99201  
P: 509.324.9256  
F: 509.323.8879  
www.leeandhayes.com

**lee & hayes**

Serial No.: 09/934,032  
Atty Docket No.: 10016437-1  
RESPONSE TO NON-FINAL OFFICE ACTION DATED  
3/30/2006

12

0823081632 01DOCSHPT10242US1A68538.DOC

BY: Kathy C. Christ

Roth

Roth describes a technology for providing advertisements from a central server to viewers who access web sites. The central server stores both advertisements which are to be displayed and an information data base. The data base includes information about viewers, information about the characteristics of particular web sites and other information relevant to which advertisements should be displayed for particular viewers.

Proposed bids submitted by different advertisers are evaluated in real time in order to determine which particular advertisement will be displayed to a viewer. Each proposed bid can specify a price or amount that the advertiser is willing to pay for the opportunity to display an advertisement (a) to a viewer who has a particular set of characteristics and (b) on a web site and web page that meets a particular set of criteria.

The system includes (a) a web server system which has data bases stored therein, (b) bidding agents which compare the characteristics of view-ops to the specifications in proposed bids and which submit bids as appropriate, and (c) bid selection logic which decides which bid to accept for each particular view-op.

### Anticipation Rejections

#### Based upon Feezell

The Office rejects claims 1, 2 and 4-23 (i.e., all pending claims except claim 3) under USC § 102(e) as being anticipated by Feezell. Applicant

Serial No.: 09/934,032  
Atty Docket No.: 10016437-1  
RESPONSE TO NON-FINAL OFFICE ACTION DATED  
3/30/2006

13

0823061532 0:100CSVHP110242US1A68538.DOC  
atty: Kasey C. Christie

421 West Riverside, Suite 500  
Spokane, WA 99201  
P: 509.324.9256  
F: 509.323.8978  
www.lee&hayes.com  
**lee & hayes**

1 respectfully traverses the rejections of these claims. Based on the reasons given  
2 below, Applicant asks the Office to withdraw its rejection of these claims.

3  
4 Independent Claim 1

5 On pages 2-3 of the Action, the Office indicates the following with regard  
6 to this claim:

7  
8 Regarding to claim 1, Feezell discloses a method for facilitating the on-line  
9 auction of one or more services, the method comprising:

10 obtaining a service item for auction (column 5, lines 1-10, the Time Slot  
11 Exchange Server (TSES) 406 receives the time slot offers from sellers and stores in the  
12 database 405);

13 providing a rating for the service item based upon a common rating scale  
14 (column 7, lines 35-45, assigning weights to the submitted requirements, e.g. the age is  
15 assigned a weight of 10, the income is assigned a weight of 20);

16 managing an on-line auction for the service item, wherein the managing  
17 comprises: receiving on-line bids for the service item in terms of rating units  
18 rather than monetary units (column 10, lines 5-25, receiving a non-specific bid from the  
19 buyer, e.g. a bid seeks a time slot with a viewer demographic focusing on households  
20 with annual incomes between \$20,000 and \$30,000, the bidder specifies a 10%  
21 tolerance in the household income requirement); closing the on-line auction for the  
22 service item; indicating one or more winning bids and one or more winning bidders  
23 (column 8, lines 25-27, a seller can accept a bid effectuate a transaction by selecting an  
24 accept button next to each bid).

421 West Riverside, Suite 500  
Spokane, WA 99201  
P: 509.324-9258  
F: 509.323-8979  
www.lee&hayes.com

**lee & hayes**

Serial No.: 09/934,032  
Att. Docket No.: 10016437-1  
RESPONSE TO NON-FINAL OFFICE ACTION DATED  
3/30/2006

14

0673061832 O:\DOCS\HPT\10242\US\A68538.DOC

Att. Casey C. Christie

1 Applicant submits that this anticipation rejection is not valid because no  
2 single reference (namely **Feezell**) discloses each and every element of this claim<sup>1</sup>.

3 To the Applicant, it appears that the Office is equating the claimed "service  
4 items" with the "time slots" disclosed by **Feezell**. It also appears that the Office  
5 is indicating that the "assigned weights" disclosed by **Feezell** is equivalent to the  
6 "rating" or "common rating scale" of the claim. If the Applicant has  
7 misunderstood the Office's assertions, please clarify.

8 Applicant submits that **Feezell** does not anticipate this claim because  
9 **Feezell** does not disclose, for example, "providing a rating for the service item  
10 based upon a common rating scale." Col. 7, lines 34-35 of **Feezell** states, "the  
11 buyer can advantageously assign weights to the *submitted requirements*"  
12 (emphasis added). The weight is no assigned to the service being bid upon—the  
13 time slots here. Rather, the weights are assigned to the requirements (or "criteria  
14 according to col. 7, lines 8-9) specified by the buyer seeking to purchase a time  
15 slot.

16 So, it appears that the Office is indicating that a buyer rating the importance  
17 of their purchase criteria for a time slot is equivalent to "providing a rating for the  
18 service item based upon a common rating scale." If Applicant's understanding of  
19 the Office's assertion is mistaken, please correct it. If Applicant's understanding  
20 is correct, then Applicant submits that **Feezell** does not anticipate this claim  
21 because that rating is for "service items" themselves and not the criteria for a bid  
22 on such items.

23  
24  
25 <sup>1</sup> "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or  
inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628,  
631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

1 Furthermore, Feezell does not disclose, for example, "receiving on-line  
2 bids for the service item in terms of rating units rather than monetary units." The  
3 cited portion of Feezell discusses a buyer's "non-specific bids." Applicant  
4 submits that the buyer's "non-specific bids" are not "in terms of rating units rather  
5 than monetary units" (as is recited in the claims).

6 Rather, Feezell disclose that buyer's "non-specific bid" is not specific about  
7 the particular time slot that the buyer desires. Instead, the buyer's criteria will be  
8 used to locate particular time slots that might be desirable to the buyer. Feezell  
9 never discloses a bid "in terms of rating units." It also does not disclose that the  
10 "non-specific bid" is not done in terms of "monetary units" (i.e., money).

11 Consequently, Feezell does not disclose all of the claimed elements and  
12 features of this claim. Accordingly, Applicant asks the Office to withdraw its  
13 rejection of this claim.

14  
15 Dependent Claims 2-10

16 These claims ultimately depend upon independent claim 1. As discussed  
17 above, claim 1 is allowable. It is axiomatic that any dependent claim which  
18 depends from an allowable base claim is also allowable. Additionally, some or all  
19 of these claims may also be allowable reasons that are independent to the reasons  
20 for the allowability of their base claim.  
21  
22  
23  
24  
25

Independent Claim 11

On pages 4-5 of the Action, the Office indicates the following with regard to this claim:

Regarding to claim 11, Feezell further discloses an on-line marketplace for auctioning services, the marketplace comprising:

a service auction-block computing system configured to obtain a service item for auction (figure 1, Time Slot Exchange Server 406);

a services rating computing system configured to provide a rating for the service item for auction based upon a common rating scale (figure 1, Independent Ratings Agency Server);

an auctioneer computing system configured to manage an on-line auction for the service item (figure 1, Time Slot Exchange Server 406).

Applicant submits that this anticipation rejection is not valid because no single reference (namely Feezell) discloses each and every element of this claim.

Applicant submits that Feezell does not anticipate this claim because Feezell does not disclose, for example, "a services rating computing system configured to provide a rating for the service item for auction based upon a common rating scale." The Office cites the "Independent Ratings Agency Server"—which is numbered 407 in Fig. 1—as disclosing this.

Applicant is unclear as to what the "Independent Ratings Agency Server" of Feezell discloses because that term and the 407 reference number are never mentioned or described in the text of Feezell. So, the Applicant asks the Office to please clarify—with particularity—what it understands Feezell to disclose with

Serial No.: 09/934,032

Atty Docket No.: 10016437-1

RESPONSE TO NON-FINAL OFFICE ACTION DATED  
3/30/2006

17

0023081832 0:1DOC SHP10242USIA68538.DOC

Atty: Kasey C. Christie



1 regard to the "Independent Ratings Agency Server" and where exactly that  
2 disclosure is located in the text.

3 In its review of Feezell, it appears possible that the "Independent Ratings  
4 Agency Server" might correspond to the unnumbered "objective independent  
5 ratings agency" disclosed at col. 5, lines 43-48. That passage states the following:  
6 "For example, the program\_id can be correlated to a ratings data set provided by  
7 an objective independent ratings agency (IRA). A record in the IRA ratings data  
8 set correlated with a particular time slot can include critics' notes, audience ratings,  
9 content notes and viewership estimates for the program."

10 Applicant submits that this, without more, does not amount to a disclosure  
11 of a "common rating scale" being used to provide a "rating for the service item"  
12 (as is recited in the claims).

13 Consequently, Feezell does not disclose all of the claimed elements and  
14 features of this claim. Accordingly, Applicant asks the Office to withdraw its  
15 rejection of this claim.

16  
17 Dependent Claims 11-17

18 These claims ultimately depend upon independent claim 11. As discussed  
19 above, claim 11 is allowable. It is axiomatic that any dependent claim which  
20 depends from an allowable base claim is also allowable. Additionally, some or all  
21 of these claims may also be allowable reasons that are independent to the reasons  
22 for the allowability of their base claim.  
23  
24  
25

421 West Riverside, Suite 500  
Spokane, WA 99201  
P: 509.324.9256  
F: 509.323.8978  
www.leeandhayes.com  
**lee & hayes**

Claims 18-23

On page 5 of the Action, the Office indicates the following with regard to these claims:

Claim 18-23 are written in computer-readable medium that parallel the limitations found on claims 1, 6-10 above, therefore, are rejected by the same rationale.

If the Office's assertion is accurate, then these claims are allowable for the same reasons that claims 1, 6-10 are allowable. Accordingly, Applicant asks the Office to withdraw its rejection of these claims.

421 West Riverside, Suite 500  
Spokane, WA 99201  
P: 509.324-9258  
F: 509.323-8979  
www.leeandhayes.com

**lee & hayes**

Serial No.: 09/934,032  
Atty Docket No.: 10016437-1  
RESPONSE TO NON-FINAL OFFICE ACTION DATED  
3/30/2006

19

0023001032 0100CSVPT102421USV468534.DOC

att'y: Kasey C. Christie

## Obviousness Rejections

### Lack of *Prima Facie* Case of Obviousness (MPEP § 2142)

Applicant disagrees with the Office's obviousness rejections. Arguments presented herein point to various aspects of the record to demonstrate that all of the criteria set forth for making a *prima facie* case have not been met.

### Based upon Feezell and Roth

The Office rejects claim 3 under USC § 103(a) as being unpatentable over **Feezell** in view of **Roth**. Applicant respectfully traverses the rejections of these claims. Applicant asks the Office to withdraw its rejection of these claims.

### Dependent Claim 3

These claims ultimately depend upon independent claim 1. As discussed above, amended claim 1 is allowable. It is axiomatic that any dependent claim which depends from an allowable base claim is also allowable. Additionally, some or all of these claims may also be allowable reasons that are independent to the reasons for the allowability of their base claim.

421 West Riverside, Suite 500  
Spokane, WA 99201  
P: 509.324-9256  
F: 509.323-8978  
www.leeandhayes.com

**lee & hayes**

Serial No.: 09/934,032

Atty Docket No.: 10016437-1

RESPONSE TO NON-FINAL OFFICE ACTION DATED  
3/30/2006

20

0623051832 0:1DOCSVHP10242US1A68538.DOC

Atty: Kasey C. Christio

Dependent Claims

In addition to its own merits, each dependent claim is allowable for the same reasons that its base claim is allowable. Applicant submits that the Office withdraw the rejection of each dependent claim where its base claim is allowable.

Conclusion

All pending claims are in condition for allowance. Applicant respectfully requests reconsideration and prompt issuance of the application. If any issues remain that prevent issuance of this application, the Office is urged to contact the undersigned attorney before issuing a subsequent Action.

Respectfully Submitted,

Dated: 6.28.06

By: 

Kasey C. Christie  
Reg. No. 40559  
(509) 324-9256 x232  
[kasey@leehayes.com](mailto:kasey@leehayes.com)  
[www.leehayes.com](http://www.leehayes.com)

lee&hayes  
421 West Riverside, Suite 500  
Spokane, WA 99201  
P: 509.324-9256  
F: 509.323-8979  
[www.leehayes.com](http://www.leehayes.com)

Serial No.: 09/034,032  
Atty Docket No.: 10016437-1  
RESPONSE TO NON-FINAL OFFICE ACTION DATED  
3/30/2006

21

0823061832 C:\DOCS\HP110242\USA68538.DOC  
att: Kasey C. Christie